

(6) Merchandise for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been in violation of 19 U.S.C. 1304; or

(7) Merchandise subject to quantitative restrictions, found to bear a counterfeit visa, permit, license, or similar document, or stamp from the United States or from a foreign government or issuing authority pursuant to a multilateral or bilateral agreement (but see paragraph (e), of this section).

(c) *Resolution of seizure under § 1595a(c)*. When merchandise is either required or authorized to be seized under this section, the forfeiture incurred may be remitted in accord with 19 U.S.C. 1618, to include as a possible option the exportation of the merchandise under such conditions as Customs shall impose, unless its release would adversely affect health, safety, or conservation, or be in contravention of a bilateral or multilateral agreement or treaty.

(d) *Seizure under 19 U.S.C. 1592*. If merchandise is imported, introduced or attempted to be introduced contrary to a provision of law governing its classification or value, and there is no issue of admissibility, such merchandise shall not be seized pursuant to 19 U.S.C. 1595a(c). Any seizure of such merchandise shall be in accordance with section 1592 (see § 162.75 of this chapter).

(e) *Detention only*. Merchandise subject to quantitative restrictions requiring a visa, permit, license, or other similar document, or stamp from the United States Government or from a foreign government or issuing authority pursuant to a bilateral or multilateral agreement, shall be subject to detention in accordance with 19 U.S.C. 1499, unless the appropriate visa, permit, license, or similar document, or stamp is presented to Customs (but see paragraph (b)(7), of this section for instances when seizure may occur).

[T.D. 96-2, 60 FR 67058, Dec. 28, 1995]

## Subpart D—Procedure When Fine, Penalty, or Forfeiture Incurred

### § 162.31 Notice of fine, penalty, or forfeiture incurred.

(a) *Notice*. Written notice of any fine or penalty incurred as well as any liability to forfeiture shall be given to each party that the facts of record indicate has an interest in the claim or seized property. The notice shall also inform each interested party of his right to apply for relief under section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618), or any other applicable statute authorizing mitigation of penalties or remission of forfeitures, in accordance with part 171 of this chapter. The notice shall inform any interested party in a case involving forfeiture of seized property that unless the petitioner provides an express agreement to defer judicial or administrative forfeiture proceedings until completion of the administrative process, the case will be referred promptly to the U.S. attorney or the Department of Justice if the penalty was assessed under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), for institution of judicial proceedings, or summary forfeiture proceedings will be begun. For violations involving the possession of personal use quantities of a controlled substance, also see § 171.55.

(b) *Contents of notice*. The notice shall contain the following:

(1) The provisions of law alleged to have been violated;

(2) A description of the specific acts or omissions forming the basis of the alleged violations;

(3) If the alleged violations involve the entry or attempted entry of merchandise,

(i) A description of the merchandise and the circumstances of its entry or attempted entry, and

(ii) The identity of each entry, if specific entries are involved; and

(4) If the alleged violations involve a loss of revenue,

(i) The total loss of revenue and how it was computed, and

(ii) The loss of revenue attributable to each entry, if readily susceptible to calculation.

(c) *Demand for deposit in case of smuggled articles of small value.* In the case of smuggled articles of small value, demand shall be made for immediate deposit of an amount equivalent to the domestic value of the articles on account of the liability to a penalty incurred as distinct from liability of the goods to forfeiture. Such sum shall be deposited whether or not a petition for relief is filed in accordance with part 171 of this chapter. A demand for deposit need not be made in connection with any liability incurred by the master of a vessel under the provisions of section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453).

[T.D. 72–211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 78–38, 43 FR 4255, Feb. 1, 1978; T.D. 79–160, 44 FR 31956, June 4, 1979; T.D. 85–90, 50 FR 21431, May 24, 1985; T.D. 89–86, 54 FR 37602, Sept. 11, 1989]

**§ 162.32 Where petition for relief not filed.**

(a) *Fines, penalties and forfeitures.* If any person who is liable for a fine, penalty, or claim for a monetary amount, or who has an interest in property subject to forfeiture, fails to petition for relief as set forth in part 171 of this chapter, or fails to pay the fine or penalty within 30 days from the mailing date of the violation/penalty notice provided in § 162.31 (unless additional time is authorized for filing a petition, as set forth in part 171 of this chapter) the port director, shall, after any required collection action is complete, refer any fine or penalty case promptly to the U.S. attorney, or the Department of Justice if the penalty was assessed under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592). In the case of property subject to forfeiture, the port director, where appropriate, shall complete administrative forfeiture proceedings or shall refer the matter promptly to the U.S. attorney, or the Department of Justice if the case arose under section 592, in accordance with the provisions of subparagraph (c) below, unless the Commissioner of Customs expressly authorizes other action.

(b) *Institution of forfeiture proceedings before completion of administrative proce-*

*dures.* Nothing in these regulations is intended to prevent the institution of forfeiture proceedings before completion of the administrative remission or mitigation procedures pursuant to section 618, Tariff Act of 1930, as amended (19 U.S.C. 1618).

(c) *Seized property not eligible for administrative forfeiture.* If the seized property is not eligible for administrative forfeiture, and neither a petition for relief in accordance with part 171 of this chapter, nor an offer to pay the domestic value as provided for in § 162.44, is made within 30 days (unless additional time has been authorized under part 171 of this chapter), the port director shall refer the case promptly to the U.S. attorney for the judicial district in which the seizure was made, or the Department of Justice if the penalty was assessed under section 592.

[T.D. 85–195, 50 FR 50289, Dec. 10, 1985]

**Subpart E—Treatment of Seized Merchandise**

**§ 162.41 [Reserved]**

**§ 162.42 Proceedings by libel.**

If seizure is made under a statute which provides that the property may be seized and proceeded against by libel, the summary forfeiture procedures set forth in §§ 162.45, 162.46, and 162.47 do not apply. Such cases shall be referred to the U.S. attorney. The port director may request the U.S. attorney to seek a decree of forfeiture providing for delivery of the property to the port director for sale or other appropriate disposition, if such property is not to be retained for official use.

**§ 162.43 Appraisement.**

(a) *Property under seizure and subject to forfeiture.* Seized property shall be appraised as required by section 606, Tariff Act of 1930, as amended (19 U.S.C. 1606). The term “domestic value” as used therein shall mean the price at which such or similar property is freely offered for sale at the time and place of appraisement, in the same quantity or quantities as seized, and in the ordinary course of trade. If there is no market for the seized property at the place of appraisement, such value